

REMARKS

In view of the foregoing amendments and following remarks responsive to the Office Action dated October 20, 2008, Applicant respectfully requests favorable reconsideration of this application.

I. Introduction

Applicant respectfully thanks the Examiner for his courtesy in conducting a telephonic interview with Applicant's undersigned representative on December 11, 2008. During that conversation, Applicant's representative and the Examiner discussed the rejection under 35 U.S.C. 101.

In that conversation, the Examiner indicated that an argument by Applicant in this amendment indicating what is meant by computer readable medium would be adequate to overcome the rejection. Applicant does so below.

Applicant also respectfully thanks the Office for the indication that claims 3-15 are allowable and that claims 18-29 are allowable over the prior art of record, but are rejected merely as being non-statutory (which rejection has now been overcome).

II. Matters of Form

As noted immediately above, the Office rejected the computer product claims, claims 16-29 under 35 U.S.C. 103, asserting that the claimed invention is directed to non-statutory subject matter. Particularly, the Office indicated that these claims are directed toward a computer readable product embodied on computer readable media, but that the Applicant's specification does not explicitly define the term "computer readable media". The Office further objected to the specification as failing to provide proper antecedent basis for the claimed subject matter under 37

C.F.R. 1.75(d)(1) and MPEP §608.01(o). Particularly, the Office asserted that the specification does not define the computer readable media claimed in claim 16-29 and requested clarification. Furthermore, in the Response to Arguments section of the Office Action, the Office asserted that Applicant's amendments to the specification comprised new matter and therefore did not overcome the specification objection and the 101 rejection from the previous Office Action (which are essentially identical to the current specification objection and 101 rejection). However, the Office did not officially assert a new matter rejection.

In view of all of the foregoing, Applicant has herein (1) amended the specification to delete the previously added text and (2) provides the following argument as suggested by the Examiner in the aforementioned telephone conversation.

The term "computer readable media" in the claims was intended to refer to nothing more than conventional, well-known computer readable media, such as DVD-ROM, CD-ROM, flash drives, and hard drives. The language does not present any new matter issue since the language appears in the original claims and the original claims constitute part of the specification. Furthermore, the use of the term "computer readable media" is not indefinite in any way insofar as anyone of skill in these arts would understand what that means and be able to readily identify at least one "computer-readable media".

Accordingly Applicant respectfully requests the Office to withdraw the rejection under 35 U.S.C. 101.

The Office further rejected claims 17 and 18 under 35 U.S.C. 112, second paragraph, noting that the limitation "the method of claim . . ." in the preambles of these two claims lacks antecedent basis insofar as these claims are not method claims, but computer readable product claims. Applicant has herein amended claims 17 and 18 to correct this clerical error.

III. Matters of Prior Art

Only claims 1, 2, 16, and 17 have been rejected on prior art grounds. Particularly, they have been rejected under 35 U.S.C. 102(e) as being anticipated by Miller. These rejections and Applicant's responses thereto have been fully discussed in connection with the previous Office Action and the response thereto.

Therefore, focusing on the Response to Arguments section of the new Office Action, the Office deemed Applicant's previous arguments unpersuasive, asserting that the Applicant's arguments with respect to the prior art are not in line with the scope of the claims. Particularly, the Office asserted that the claims do not claim that multiple servers have to be visited.

Particularly, it appears that the Office's position is that, in Miller, when server B takes over for disabled server A, server B knows to look in server A's cache and, therefore, some form of list must exist. Apparently, furthermore, the Office's position appears to be that the lists recited in claims 1 and 16 are not sufficiently defined and may include the identity of only a single server.

In order to overcome this rejection, Applicant has herein amended independent claims 1 and 16 to now expressly recite that the collection of client requests have been serviced by different ones of the servers. The above-mentioned

amendments should, therefore, now overcome these last remaining rejections of claims 1, 2, 16, and 17.

IV. Miscellaneous Matters

Applicant has herein amended allowable claims 3, 11, and 18 into independent form.

Furthermore, in reviewing the claims, Applicant has noted a few typographical errors, which have been corrected herein. Particularly, the preamble of claim 14 previously referred to step (2), whereas, it should be obvious that it actually should refer to step (3). Furthermore, with respect to claim 15, Applicant has herein changed the step numbers in order to avoid two dependent claims utilizing the same step numbers. Particularly, claims 14 and 15 previously used the same step numbers. This was simply a typographical error. Applicant does not wish re-use step numbers for sake of clarity, even if permissible.

V. Conclusion

The Examiner is respectfully requested to reconsider and withdraw the rejections of the claims. An early Notice of Allowance is earnestly solicited.

The Commissioner is hereby authorized to charge the extension fee to Deposit
Account No. 09-0461.

Respectfully submitted

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Date

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